

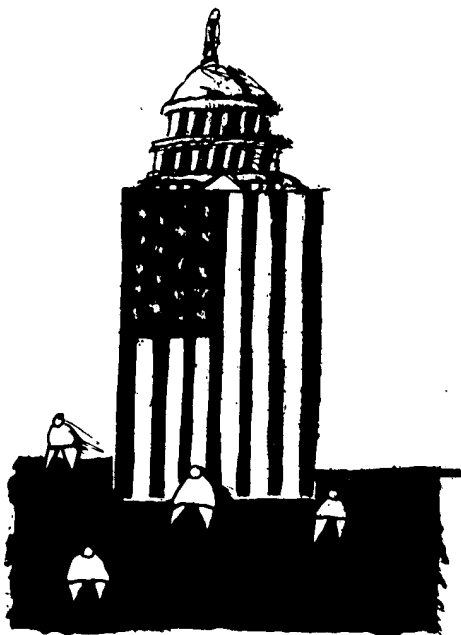


Department of the Treasury
Internal Revenue Service

Publication 567
(Rev. Nov. 85)

U.S. Civil Service Retirement and Disability

For use in preparing
1985 Returns



Introduction

This publication explains the federal tax rules that apply to your civil service annuity, including:

- How to figure the taxable part of your annuity,
- How to report the annuity income on your Form 1040, and
- How the federal gift tax rules apply when you provide for an annuity for your survivor.

If you are receiving civil service benefits as the survivor or beneficiary of a deceased federal employee or retiree, get Publication 721, *Comprehensive Tax Guide to U.S. Civil Service Retirement Benefits*.

U.S. Civil Service Retirement

This section is for retirees who retired on optional (regular) retirement. If you retired on disability, see *Disability Retirement*, later.

Your cost. While you worked for the federal government, part of your pay was withheld and paid to the Civil Service Retirement and Disability Fund. The amount withheld (your contribution) was taxed as part of your gross income. If you did not take your contributions out of the fund before retirement, they are your cost of the annuity. If you did take them out but later paid them back, the total amount you paid back, including any interest, is a part of your cost. In addition, if you made payments to the fund to get full credit for civilian or military services that were not covered, the amount paid is also a part of your cost. You may not claim an interest deduction on your income tax return for any interest payment because this is a part of your cost.

The Civil Service Annuity Statement you received when your annuity was approved shows your **total contributions** to the retirement fund (your cost) and the **monthly rate** of your annuity benefit. The monthly rate is the amount you will get each month before any deductions for premiums paid for health benefits coverage, state income tax, union dues, Medicare, life insurance, and withheld federal income tax.

It is your responsibility to find out when your annuity becomes taxable. Generally, the Office of Personnel Management (OPM) will notify you when you have recovered your contributions and your annuity becomes taxable.

If you retired under the general service requirements and draw an annuity, report your annuity benefits on your federal income tax return by using the **Three-Year Rule** or the **General Rule**. In most cases, the Three-Year Rule will apply.

Three-Year Rule

You must use the Three-Year Rule if, during the 3 years from the date of your first annuity payment, the total amount receivable will equal or exceed your cost in the contract. Under the Three-Year Rule, your annuity payments are tax free until an amount equal to your cost has been returned to you. From then on, your annuity payments will be fully taxable as ordinary income. The Three-Year Rule is used by most civil service retirees because they normally get an amount exceeding their annuity cost during the 3-year period.

Recovering your cost. To find out if you will get a total equal to your cost during the 3-year period (36 months), multiply your regular monthly rate by 36. If this amount, together with any payment of **accrued monthly installments** re-

ceived in a lump sum during this same 3-year period, is equal to or more than your cost, you must use the Three-Year Rule. If you will not get a total equal to your cost within the 3-year period, see *General Rule*, later.

Accrued monthly installments. You will normally receive your annuity checks around the first of each month for the preceding month. But since it takes OPM some time to figure your annuity payment, your first check may include more than the amount for the previous month. The extra amount is your accrued monthly installments. You may also receive an additional extra amount in a later payment.

For example, you retired on June 1, and received your first check on August 1. The check included \$773 for June 2 through June 30, and \$800 for July 1 through July 31. The accrued monthly installment is \$773 and the \$800 is for the previous month. If the \$773 and \$800 had been special payments, explained later, the part of any lump-sum payment you receive for the difference between your regular payment and your special payment for June 2 through June 30 is also an accrued monthly installment.

If you filed your application for retirement late (after your retirement date), or if you have the right to receive payments because your application was processed late, you may receive a lump-sum payment that includes an extra amount to cover the period between your retirement date and the end of the month before the month preceding the check. See *Accrued monthly installments*, just above.

If the lump sum is **less** than your cost of the annuity, you must see if the Three-Year Rule applies. If the lump sum is **more** than your cost of the annuity, the excess (the lump sum minus your cost) is fully taxable as are all future annuity payments that you receive.

Special payments. You may receive special payments before OPM figures your annuity. These payments will probably be less than your regular annuity payment. The 3-year period begins when you receive your first special payment. However, to see if you will get a total equal to your cost in 3 years, you must use your regular monthly annuity payment, not the special payment amount.

General Rule

If it takes longer than 3 years to get a total equal to your cost, you must report your annuity under the General Rule. Under this method each monthly annuity payment you receive is made up of two parts: a return of your cost (the tax-free part) and a taxable part. For information on this rule, see Publication 721, *Comprehensive Tax Guide to U.S. Civil Service Retirement Benefits*.

Other Rules

Cost-of-living increases in the monthly rate of your annuity do not affect the method of reporting it on your federal income tax return. If, at the time you receive your first payment, you find you cannot use the Three-Year Rule, you must use the General Rule even if the monthly rate increases. These increases are fully taxable. If you find you must use the Three-Year Rule, your total annuity, including the increases, is tax free until you recover your cost. Then your annuity, including the increases, is fully taxable.

Fully taxable annuity. If you got back your total cost of your annuity before 1985, and you are using the Three-Year Rule to report your annuity, it is fully taxable. Report it on line 16 of your 1985 Form 1040.

Form W-2P(A). Form W-2P(A), *Statement for Federal Civil Service Annuitants*, is mailed to

you by OPM each year. If you will recover your cost within 3 years, the W-2P(A) will show the taxable part, if any, of your annuity as well as any tax you had withheld.

Copy B of Form W-2P(A) should be filed with your Form 1040.

How To Report

If all or part of your annuity received in 1985 is not taxable because you were recovering your cost, report the total amount you received on Form 1040, line 17a, and the taxable part (shown on Form W-2P(A)) on line 17b.

If you are using the Three-Year Rule and you got back all of your cost before 1985, report the total amount you received in 1985 on line 16, Form 1040.

Example. Jack Miller retired from federal service on March 31, 1984. He received his first retirement check on June 1, 1984. The Civil Service Annuity Statement shows that Jack's monthly annuity rate is \$1,370, and that his total contributions (his cost) are \$25,000. Jack's first retirement check was \$2,740 (\$1,370 for April and \$1,370 for May). To determine if he will get at least \$25,000 in the 3-year period beginning June 1, 1984, Jack multiplies \$1,370 (his monthly rate) by 36 and adds the \$1,370 for April. Because \$50,690 ($36 \times \$1,370 + \$1,370$) is more than \$25,000 (his cost), Jack must use the Three-Year Rule.

Jack received six more payments at \$1,370 each. The 1984 Form W-2P(A), *Statement for Federal Civil Service Annuitants*, which Jack got from OPM, shows the gross amount of annuity paid during 1984 as \$10,960. Jack did not pay tax on this amount in 1984 because he had not yet recovered his cost of \$25,000.

Jack's 1985 Form W-2P(A) shows the gross amount of annuity paid during 1985 as \$16,440 ($\$1,370 \times 12$).

Worksheet from 1985 Form 1040 Instructions

1a. Enter your cost.....	\$25,000
b. Cost recovered in prior years.....	10,960
c. Subtract line 1b from line 1a	14,040
2. Amount received this year. Also enter this amount on Form 1040, line 17a.....	16,440
3. Amount on line 2 that is not taxable (but not more than line 1c).....	14,040
4. Taxable part. Subtract line 3 from line 2. Enter the result here and on Form 1040, line 17b (if zero, enter -0-).....	2,400

Because Jack's remaining cost of \$14,040 (\$25,000 - \$10,960) was recovered in 1985, part of his benefits became taxable. Jack reports \$16,440 on line 17a, Form 1040 and \$2,400 (shown on Form W-2P(A)) on line 17b, Form 1040 as the taxable part of his 1985 annuity. All payments that Jack receives in the future from this annuity will be fully taxable.

See the completed Form 1040 at the end of this publication.

Withholding Tax And Estimated Tax

The annuity you receive is subject to federal income tax withholding unless you choose not to have tax withheld. OPM sends Form W-4P-A, *Election of Federal Income Tax Withholding*, to all retirees. Use this form to either:

- 1) Specify your marital status and the number of withholding allowances you want to claim, or
 - 2) Choose to have no tax withheld.
- If you choose not to have tax withheld from your annuity, or if you do not have enough in-

come tax withheld, you may have to make estimated tax payments.

Generally, your withholding tax or estimated tax payments, or the total of both, must cover at least 80% of your total tax for the current year. If it does not, you may owe a penalty. See Publication 505, *Tax Withholding and Estimated Tax*, for more information.

The withholding rules generally apply to the **taxable** part of the annuity payments you receive. There will be no withholding on any part of a distribution that, it is reasonable to believe, will not be includible in gross income.

Choosing no withholding. If you want to choose not to have withholding apply to your civil service annuity, complete Form W-4P-A and return it to OPM, or notify OPM in writing. This election remains in effect until you revoke it.

Withholding certificate. For purposes of withholding income tax on periodic payments, your annuity will be treated as though it were wages. You should give OPM a completed Form W-4P-A. If you do not, OPM must withhold as if you were married with three withholding allowances. To change the amount of withholding, send a new Form W-4P-A to OPM.

You may request a Form W-4P-A by writing to OPM at the following address:

Office of Personnel Management
Allotment Branch
P.O. Box 961
Washington, D.C. 20044

You should include your retirement claim number with your request.

Estimated tax. Your estimated tax is the total of your expected income tax and self-employment tax for the year minus your expected credits and withholding tax. Generally, for 1986 and thereafter, you must make estimated tax payments if your estimated tax not covered by withholding is \$500 or more. Form 1040-ES contains a worksheet that you can use to see if you have to make estimated payments. For more information, see Publication 505.

Disability Retirement

If you retired on disability, you must report your disability income as ordinary income. However, you may be entitled to a credit. See *Credit for Elderly or Disabled*, later.

Disability Payments

If you retired on disability, payments you receive are taxable as ordinary income until you reach **minimum retirement age**. Beginning on the day after you reach minimum retirement age, your payments are treated as a retirement annuity. At that time you begin to recover your cost of the annuity under either the *Three-Year Rule* or the *General Rule*, discussed earlier.

Minimum retirement age is the age at which you may first receive an annuity whether or not you are disabled.

How to report. Generally, you must report all your taxable disability payments on line 7, Form 1040. However, if you do not claim the credit for the elderly and the permanently and totally disabled, and do not report the disability payments as annuity income, you may qualify to use Form 1040A or Form 1040EZ. If you do, report your payments on line 6, Form 1040A, or line 1, Form 1040EZ.

Credit for Elderly or Disabled

You may be able to take the *Credit for the Elderly and the Permanently and Totally Disabled* if:

- 1) You were age 65 or older at the end of the tax year, or
- 2) You were under age 65 at the end of the tax year and you meet all of the following tests:
 - a) You are retired on permanent and total disability, or if you retired before January 1, 1977, you were permanently and totally disabled on January 1, 1976, or January 1, 1977,
 - b) You received taxable disability income, and
 - c) You did not reach **mandatory retirement age** before the beginning of the tax year.

You are retired on permanent and total disability if you were permanently and totally disabled when you retired and are still permanently and totally disabled, and receive disability income because of the disability. If you retired on disability before 1977, you did not have to be permanently and totally disabled at the time you retired, provided you were permanently and totally disabled on January 1, 1976, or January 1, 1977.

Permanently and totally disabled. You are permanently and totally disabled if you cannot engage in **any** substantial gainful activity because of your physical or mental condition. The substantial gainful activity is not limited to your job activity performed before you retired, or a similar activity. A physician must determine that your condition is expected to result in death or has lasted, or can be expected to last, for a continuous period of at least 12 months. For further information on what is substantial gainful activity, see Publication 524, *Credit for the Elderly and the Permanently and Totally Disabled*.

Mandatory retirement age is the age set by your employer at which you must retire. There is no mandatory retirement age for most civil service employees. However, there is a mandatory retirement age for the following employees:

- 1) An air traffic controller appointed on or after May 16, 1972, by the Department of Transportation or Defense generally must retire on the last day of the month in which he or she reaches age 56.
- 2) A law enforcement officer or a firefighter employed by the U.S. Government, who is otherwise eligible for immediate retirement, generally must retire on the last day of the month in which he or she reaches age 55 or later completes 20 years of law enforcement or firefighter service.

Physician's statement. If you are under 65 and retired on permanent and total disability, have your doctor complete the *Physician's Statement* in Part II of Schedule R (1040). If you filed a physician's statement for the same disability with your return for 1983 or an earlier year, or you filed a statement for 1984 and your physician checked Box B on the statement, check the box in Part II. You do not have to file another physician's statement this year. If you have not filed a physician's statement in a previous year, or you filed a statement for 1984 and your physician checked Box A, you must have your physician complete a statement.

Figuring the credit. If you want the Internal Revenue Service to figure your tax and credits, including the credit for the elderly and the permanently and totally disabled, see the instructions for your Form 1040.

For complete information on this credit, get Publication 524, *Credit for the Elderly and the Permanently and Totally Disabled*.

Other Benefits

The tax treatment of certain other benefits is explained in this section.

Voluntary contributions. If you made voluntary contributions to the retirement fund, the part of your annuity that comes from your voluntary contributions must be reported as a separate annuity. This annuity is taxable under the General Rule. Form W-2P(A), *Statement for Federal Civil Service Annuitants*, that you get each year, will show how much of your total annuity received in the past year was from your voluntary contributions. The General Rule is discussed in Publication 721, *Comprehensive Tax Guide to U.S. Civil Service Retirement Benefits*.

Federal Employees' Compensation Act (FECA). FECA payments you receive for personal injuries resulting from the performance of your duties are like worker's compensation. They are tax exempt and are not treated as disability income or annuities. However, payments you receive while your claim is being processed, including "continuation of pay" for up to 45 days and pay while on sick leave, are taxable. If you had to "buy back" your sick leave to qualify for FECA benefits, see Publication 721.

Terrorist attack. Disability benefits you receive for injuries resulting from a violent attack are tax exempt and are not treated as disability income or annuities if (1) the Secretary of State determines it to be a terrorist attack, and (2) the attack took place while you were a U.S. employee performing official duties outside the United States.

Veterans' Administration. If you received payments from the Veterans' Administration for personal injuries resulting from active service in the armed forces and, later, receive disability payments from the Civil Service Retirement and Disability Fund for disability arising from the same injuries, you may not treat the civil service payments as tax-exempt income. They are treated as disability income or annuities, subject to the rules described earlier.

Lump-sum annual leave. When you retire, any lump-sum payment for your unused annual leave is taxed as a salary payment. It is not treated as disability or annuity pay, but is taxed as ordinary income in the tax year you receive the payment.

Gift Tax

When you retire, you may receive a reduced annuity to provide an annuity for your survivor. You may also receive a reduced **additional annuity**, which is from your voluntary contributions, if any, to the retirement fund. If you receive either or both of these reduced annuities, you have made a taxable gift and you must file a gift tax return.

Note. If you retired on or after May 7, 1985, the civil service retirement rules changed with regard to receiving a reduced annuity so as to provide a survivor annuity for a spouse or former spouse. To find out whether the gift tax applies, write to: Internal Revenue Service, Attention: CC:IND:S, Washington, DC 20224. When you write, please furnish the information described under *Request for ruling*, later.

Gift tax return. Generally, you must file Form 709, *United States Gift Tax Return*, if you made gifts during the year to any one person totaling more than \$10,000 (the annual exclusion). However, the annual exclusion does not apply to gifts of future interests. If you made a gift of a survivor annuity to someone, it is a gift of a future interest and you must file a gift tax return even if the value of the gift is \$10,000 or less. Generally, the gift is made when you cash the check for your first regular annuity payment.

Generally, a gift tax return is due on April 15 of the year following the year of the gift. However, if you received an extension of time for filing your calendar year federal income tax

return, the extension will also apply to your gift tax return. You may also request a separate extension of time to file your gift tax return. See the Instructions for Form 709 for details.

Marital deduction. If you receive a reduced annuity so that your spouse can receive a survivor annuity after your death, you will not be allowed the gift tax marital deduction.

For more information about the filing requirements for gifts, see Publication 448, *Federal Estate and Gift Taxes*.

Taxable gift. To find what part of the survivor annuity is a taxable gift:

- 1) Figure the total value of the annuities (whether immediate or deferred) at the time you retire that are payable to you and your designated survivor. See *Value of annuity*, later.
- 2) Figure the value of the survivor annuity at the time you retire.
- 3) Figure the total amount of contributions that you made to the system plus any accrued interest.
- 4) Multiply the result in (2) by a fraction, of which the numerator (top part) is the result in (3), and the denominator (bottom part) is the result in (1).

Example. When Ron Brown retired from the federal government, he began to receive a reduced annuity with an annuity payable to his wife if she should outlive him.

On the date of retirement, the total value of his annuity and his wife's annuity was \$220,153. His contributions to the system plus accrued interest totaled \$30,000. On the same date, the value of his wife's annuity was \$50,485.

The part of his wife's annuity that is a taxable gift is figured as follows:

- 1) Total value of his annuity and his wife's annuity on his retirement date..... \$220,153
- 2) Value of wife's annuity on the retirement date. \$ 50,485
- 3) His total contributions plus accrued interest.... \$ 30,000
- 4) Taxable gift:

$$\frac{\$30,000}{\$220,153} \times \$50,485 = \$6,880$$

Although Ron must file a gift tax return and show a taxable gift of \$6,880, he might not owe any gift tax because he is entitled to a **unified credit** against his gift tax. To determine the credit allowable, see the Instructions for Form 709, *United States Gift Tax Return*.

Value of annuity. To find out the value of your annuity and your designated survivor's annuity, write to: Internal Revenue Service, Attn: OP:E:EP:GA, 1111 Constitution Avenue, N.W., Washington, DC 20224.

Be sure to include the date of your retirement, your birth date and the birth date of your designated survivor, your total contributions to the system plus any accrued interest, the monthly rate of the annuity benefit you will receive at your retirement, and the potential monthly rate your designated survivor will receive. You can get all this information by requesting a "gift tax letter" from: Office of Personnel Management, Retirement and Insurance Programs, Allotment Section, P.O. Box 961, Washington, DC 20044. Send a copy of this letter to the Internal Revenue Service. Also, see *Request for ruling*, later, for additional information to be submitted.

Additional Information

Retirement before 1954. Different rules were in effect before 1954. If you retired before 1954, this could affect the tax treatment of your current annuity.

Refund of contributions. If you leave federal government service and you are not eligible for an immediate annuity, you can choose to receive a refund of your contributions to the retirement fund. You will receive interest on your contributions only for government service before 1957 (interest is payable through December 31, 1956) or for government service of more than 1 year but less than 5 years (interest is payable to date of separation). Any interest you receive is taxable in the year received. Your contributions, however, are not taxable. For more information, see Publication 721, *Comprehensive Tax Guide to U.S. Civil Service Retirement Benefits*.

Rollovers. A rollover is a tax-free transfer of cash or other assets from one retirement program to another. You do not include it as income or deduct it as a payment. The most you can roll over is the taxable part of the distribution you received. If you receive a refund of your contributions without any interest, you may not roll over these contributions into another retirement program because your contributions are not taxable. However, if you receive your contributions plus interest, all or part of the interest may be rolled over into another retirement program.

Community property laws. State community property laws apply to annuities payable under the Civil Service Retirement Act. Generally, the determination of whether your annuity is separate income (taxable to you) or community income (taxable to both you and your spouse) is based on your marital status and domicile when you were working. If you are now living in a noncommunity property state and you receive a civil service annuity, it may be community income if it is based on services you performed while married and domiciled in a community property state.

You have only one domicile even though you may have more than one home. Your domicile is a permanent legal home you intend to use for an indefinite or unlimited period, and to which, when absent, you intend to return. The question of your domicile is mainly a matter of your intention.

If your annuity is a mixture of community income and separate income, it must be divided between the two kinds of income. The division is based on your periods of service in noncommunity property states and in community property states while you were married.

For more information, see Publication 555, *Community Property and the Federal Income Tax*.

Request for ruling. If you are a retiree or a survivor of an employee or retiree and you cannot determine the tax treatment of your annuity, you may ask the Internal Revenue Service to figure the taxable part by writing to: Assistant Commissioner (Employee Plans and Exempt Organizations), Internal Revenue Service, Attn: OP:E:EP:GA, 1111 Constitution Avenue, N.W., Washington, DC 20224. This is treated as a request for a ruling. Generally, you may make the ruling request only for the current year. That is, you must make your request for the year your annuity payments begin, before the due date (including extensions) of your return for that year.

When making this request or when requesting the computation of the value of the survivor's annuity for gift tax purposes, be sure to state all pertinent facts and enclose copies of all annuity statements received from OPM. Please also give your daytime phone number. If an attorney, a certified public accountant, or an enrolled agent is signing this request on your

behalf, a power of attorney must be sent. Form 2848, *Power of Attorney and Declaration of Representative*, may be used for this purpose.

Disclosure and perjury statement. If you write to the Internal Revenue Service to request the computation of the taxable part of your annuity or to request the value of the annuity for gift tax purposes, your request must contain the following, or similar, separate statement, signed by you (not by a representative) and dated:

"I hereby advise that no deletions need be made under the disclosure provisions of sec-

tion 6110(c) of the Internal Revenue Code, except my name, address, and social security number, in regard to the ruling request made on my behalf.

"Further, under the penalties of perjury, I declare that I have examined this request, including accompanying documents, and, to the best of my knowledge and belief, the facts presented in support of the request are true, correct, and complete."

Reemployment after retirement. If you retired from federal service and were later reemployed

by the federal government, you may continue to receive your annuity during reemployment. If your annuity continues during your reemployment, it will continue to be taxed in the same manner as originally figured. For example, if you are using the Three-Year Rule and are still recovering your contributions, you continue to do so. If your contributions are fully recovered, the annuity you receive while you are reemployed is fully taxable. The difference between your salary for your period of reemployment and your annuity will be paid to you by the employing agency. The amount paid to you by the agency is taxable as wages.

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